

# **EXHIBIT 4**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN RE JDS UNIPHASE CORPORATION  
SECURITIES LITIGATION

NO. 02-01486CW

**AMENDED**

**MINUTE ORDER**

Date: 10/9/07

**The Honorable Claudia Wilken, Presiding**

**Clerk: Sheilah Cahill**      **Court Reporter: Starr Wilson, pro tem**

**Appearances for Plaintiff:**

Barbara Hart; Anthony Harwood; Mark Arisohn; Michael Stocker;  
Stefani Sundel

**Appearances for Defendants JDS:**

James Bennett; Jordan Eth; Terri Garland; Dorothy Fernandez

**Appearances for Defendant Kalkhoven:**

Michael Sheppard; Michael Chalson; Lawrence Achorn

**Pretrial Conference Held?: Yes**

Notes: Counsel to schedule settlement conference with Judge Weinstein and if they can't get time with him then they will need to go to someone else. Parties to talk with Judge Weinstein and if unable to schedule anything, parties to let the Court know and the Court will contact Judge Weinstein to see if he can schedule something. Counsel to submit to Court by tomorrow or the next day a one paragraph statement re what the case is about to be given to the venire. Court grants motion to dismiss ADVA claims. Plaintiffs to advise Court by Friday whether they are seeking per share or aggregate damages. Counsel to inform the Court by middle of the day on Thursday re bifurcation of trial and Defendant's right to jury. Counsel to submit to the Court by next Wednesday: joint alphabetical list of witnesses and companies relevant to the case to submit to the venire; counsel to submit new chart with agreed upon numbering system for each challenged statement; resubmit jury instructions in the order they should be given; look at Court's hand-out and see if they can come up with something re verdict form; counsel to agree on which side duplicative witnesses should be called to avoid calling twice and try to minimize deposition testimony. **Jury selection will begin on Tuesday, 10/23, but counsel to appear on Monday, 10/22, at 8:30 a.m., to sort out any remaining issues.** Court will try to have questionnaires completed by prospective jurors available to counsel on Monday. Court will be selecting 9 jurors. Plaintiffs will have one hour for opening; Defendants

can have more than one hour but less than two hours. Counsel to try and work out amongst themselves advance notice on witnesses. Parties to meet and agree on exchange of demonstratives. Court rules on motions in limine. Court denies Defendants' motions in limine 1, 2, 3, 4, 5, 6, 8, 10, 13, 14a, 16, 18 w/o prejudice, 19, 20a, 20b, 20c, 20d, 21, 22, 23, 24; Court grants Defendants' motions in limine 7 in part; 11 in part, 12, 14b, 25, 26, 27, 28; parties stipulate to Defendants' motions in limine 9, 15 and 17. Court grants Plaintiffs' motions in limine 1, 5 re liability; denies Plaintiffs motions in limine 3 but will give instruction, 6, and 7; parties to resolve 4 by working out motion in limine 2. Court denies Daubert motion to exclude Wyatt. As to Barnich, he cannot testify as to what Defendants knew or understood, parties can only argue inferences. Seyhun can only testify to fact about how much Kalkhoven made what people normally made, but not why Kalkhoven made a sale; **Expert** can talk about facts, but cannot draw inferences; same goes for Guay. Court denies motion as to Henning and Hakala.

Copies to: Chambers